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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Warren Wesley Summerlin,

10 Petitioner,

11 v.

12 United States District Court, et al.,

13 Respondents.
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No. CV-15-02375-PHX-ROS

ORDER

15 On December 13, 2016, Magistrate Judge Michelle H. Burns issued a Report and
16 Recommendation (“R&R”) recommending the amended petition for writ of habeas
17 corpus be dismissed without prejudice. (Doc. 25.) No objections were filed.

18 A district judge “may accept, reject, or modify, in whole or in part, the findings or
19 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). Where any party
20 has filed timely objections to the R&R, the district court’s review of the part objected to
21 must be *de novo*. *Id.* If, however, no objections are filed, the district court need not
22 conduct such a review. *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz.
23 2003). No objections having been filed, the R&R will be adopted in full.


24 Accordingly,

25 **IT IS ORDERED** the Report and Recommendation (Doc. 25) is **ADOPTED** and
26 the petition for writ of habeas corpus is **DISMISSED** without prejudice to refile upon
27 order of the Ninth Circuit.

28 **IT IS FURTHER ORDERED** a Certificate of Appealability and leave to proceed

1 in forma pauperis on appeal are **DENIED** because the dismissal of the petition is justified
2 by a plain procedural bar and jurists of reason would not find the procedural ruling
3 debatable.

4 Dated this 31st day of July, 2017.

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8 Honorable Roslyn O. Silver
9 Senior United States District Judge
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